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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,793	06/19/2001	Joel Zdepski	5266-03400	6907
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OPTV/MEYERTONS RORY D. RANKIN P.O. BOX 398 AUSTIN, TX 78767-0398			EXAMINER SHANG, ANNAN Q	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 02/08/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/885,793

Applicant(s)

ZDEPSKI, JOEL

Examiner

Annan Q. Shang

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-26, 28-42, 44-61 and 63-80 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-26, 28-42, 44-61 and 63-80 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/19/08 has been entered.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-9, 11-26, 28-42, 44-61 and 63-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Shoff et al (6,240,555)** in view of **Fein et al (5,897,623)**.

As to claim 1, note the **Shoff** reference figures 2 and 8, interactive entertainment system (ITV-System 20, fig.2 and 4) for presenting supplemental interactive content together with continuous video programs and further discloses a method of script usage in an interactive television system comprising:

Storing an indication of a desired level of added content to display during displaying of a TV program, where the indication is not associated with any particular added content and is applicable to all applications which provide an opportunity for display of the desired level of added content (col.4, line 56-col.5, line 33, col.7, line 61-col.8, line 18, col.9, line 54-col.10, line 10 and line 59-col.11, line 67+), note that the Viewer Computing Unit 'VCU' upon receiving an interactive request, stores various level of added content to be displayed and displays various added content (text, graphics, video, picture, sound, etc.).

Executing an interactive application 'IAP' where the IAP is configured to provide the added content (figs.2, 5, Processor 92 of Viewer Computing Unit 'VCU' 24 or STB 26, col.4, lines 14-34, line 56-col.5, line 23 and col.8, lines 4-34), note that VCU/STB 24/26 receives the TV program, the supplemental interactive content, an interactive icon "script" and the interactive application, via Head end 22, a television broadcaster and web content provider (col.4, lines 14-21 and line 43-col.5, line 1+), stores in memory (94/96, coupled to Tuner 98/100, fig.5, col.8, lines 4-38) and Processor 92 "a network communications operator," retrieves these contents and execute IAP to provide TV program, the icon and supplemental content accordingly on display 200 (figs.8a-8c, col.8, lines 38-61 and col.10, line 59-col.11, line 1+);

Providing an opportunity (Processor 92 displays Icon 204, other indicia, fig.8 and col.9, lines 30-53) for display of added content (Supplemental Interactive content, col.5, line 12-33), where provision of the added content is configured to be triggered by one or more user selections (Remote Control, mouse, etc., col.4, lines 27-34 and col.9, lines

54-59); note that the icon, other indicia on the screen informs the viewer that the program is interactive or includes supplemental content;

Executing a script which generates one or more automatic selections associated with the opportunity and based on the indication, the automatic selection comprising input to the interactive application, the input being input that would otherwise be received responsive to a viewer's active interaction (col.4, lines 27-34 and col.9, line 54-col.10, line 10 and line 59-col.11, line 67+);

Generating one or more automatic selections associated with the opportunity (figs.8b and 8c) and based on the indication, the generating comprising executing a script, where provision of the desired level of added content is triggered by the one or more automatic selections instead of one or more selections and providing the desired level of added content for display is response to detecting the automatic selections; and providing the added content for display in response to detecting the automatic selections (col.10, line 44-col.11, line 1+ and col.12, lines 48-col.13, line 1+), note that activating the script or Icon 204 displays the supplemental content as partly overlaid on the video program, or provided as a wrapper around or along side the program and automatic displays additional buttons 212-221 and second tier of information which are synchronized to the program according to timing information.

Shoff is silent to where the interactive application provides two or more levels of added content, and where the automated input is indicative of a particular level of the levels of added content to be displayed.

However, note the **Fein** reference figures 1-3, discloses interactive method for providing information about items on a list for interactive television, where a selected item of interest includes increasing levels of additional information (col.1, line 57-col.2, line 32, col.3, line 58-col.4, line 67 and col.7, line 11-col.8, line 1+).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Fein into the system of Shoff to provide levels of additional information to a selected item, to assist the user in making other decision regarding the selected item.

As to claim 7, Shoff further discloses where the icon is configured to provide at least one of the one or more automatic selections associated with the opportunity at a predetermined time (col.9, lines 41-49 and col.11, lines 21-24 and line 48-col.12, line 1+).

As to claim 8 and 9, Shoff further discloses where the added content is pushed content (col.9, line 54-col.10, line 17 and line 50-col.11, line 1+).

As to claim 9, Shoff further discloses where the script is configured to store the one or more selections in a message queue in a repeated manner and where the interactive application is configured to determine whether one or more automatic selections exists by accessing the message queue (col.9, line 54-col.10, line 17 and line 50-col.11, line 1+).

As to claim 11, Shoff further discloses displaying the advertisements on TV or Monitor 200 (figs.8a-8c).

As to claim 12, Shoff further discloses indicating default script usage preferences and storing the preferences (col.10, line 59-col.11, line 33).

As to claim 13, Shoff further discloses where the script is configured to simulate one or more user selections (col.10, line 59-col.11, line 33).

As to claim 14, Shoff further discloses where the icon is downloaded (col.10, line 59-col.11, line 33).

As to claim 15, Shoff further discloses where the icon is dynamically created (col.10, line 59-col.11, line 33).

Claim 16 is met as previously discussed with respect to claims 1-2.

Claims 17-18 are met as previously discussed with respect to claim 9.

As to claim 19, the claimed "a carrier medium comprising program instructions, where the program instructions are executable to..." contains the same structural elements as rejected claim 1.

Claim 20 is met as previously discussed with respect to claim 2.

Claim 21 is met as previously discussed with respect to claim 4.

Claim 22 is met as previously discussed with respect to claim 5.

Claim 23 is met as previously discussed with respect to claim 6.

Claim 24 is met as previously discussed with respect to claim 7.

Claim 25 is met as previously discussed with respect to claim 8.

Claim 26 is met as previously discussed with respect to claim 9.

Claim 28 is met as previously discussed with respect to claim 11.

Claim 29 is met as previously discussed with respect to claim 12.

As to claim 30, Shoff further discloses where the icon is downloaded (col.8, lines 35-51).

As to claim 31, Shoff further discloses where the icon is dynamically created (col.9, lines 35-65 and col.10, line 59-col.11, line 11).

Claim 32 is met as previously discussed with respect to claim 8.

As to claim 33, Shoff further discloses where the icon is configured to store the one or more automatic selections (col.9, line 54-col.10, line 17 and line 44-col.11, line 11).

As to claim 34, the claimed "a script usage device (set-top box 'STB' 11) comprising..." contains the same structural elements as rejected claim 1.

Claim 35 is met as previously discussed with respect to claim 2.

Claim 36 is met as previously discussed with respect to claim 3.

Claim 37 is met as previously discussed with respect to claim 5.

Claim 38 is met as previously discussed with respect to claim 5.

Claim 39 is met as previously discussed with respect to claim 6.

Claim 40 is met as previously discussed with respect to claim 7.

Claim 41 is met as previously discussed with respect to claim 8.

Claim 42 is met as previously discussed with respect to claim 9.

Claim 44 is met as previously discussed with respect to claim 11.

Claim 45 is met as previously discussed with respect to claim 12.

Claim 46 is met as previously discussed with respect to claim 30.

Claim 47 is met as previously discussed with respect to claim 31.



Claim 48 is met as previously discussed with respect to claim 8.

Claim 49 is met as previously discussed with respect to claim 32.

As to claim 50, note the **Shoff** reference figures 2 and 8, interactive entertainment system (ITV-System 20, fig.2 and 4) for presenting supplemental interactive content together with continuous video programs and further discloses and further discloses a system (Viewer Computing Unit 'VCU' 24 or STB 26) for automating user input in an interactive television system (ITV-System 20), comprising:

A first source (TV program Source via Tuner 98) configured to convey and interactive application to a receiver (VCU-24 or STB-26, fig.5 and col.8, lines 4-18);

A second source (Supplemental Content Source via Tuner/Modem 100) configured to convey added content to the receiver (VCU-24 or STB-26, fig.5 and col.8, lines 4-18); and

The receiver (VCU-24 or STB-26) coupled to the first source and the second source, where the receiver is configured to:

Store an indication of a desired level of added content to display during display of a program; execute the interactive application "IAP" where the IAP is configured to provide the added content (col.4, line 56-col.5, line 33, col.7, line 61-col.8, line 18, col.9, line 54-col.10, line 10 and line 59-col.11, line 67+), note that the Viewer Computing Unit 'VCU' upon receiving an interactive request, stores various level of added content to be displayed and displays various added content (text, graphics, video, picture, sound, etc.);

Providing an opportunity (Processor 92 displays Icon 204, other indicia, fig.8 and col.9, lines 30-53) for display of added content (Supplemental Interactive content, col.5, line 12-33), where provision of the added content is configured to be triggered by one or more user selections (Remote Control, mouse, etc., col.4, lines 27-34 and col.9, lines 54-59), note that the icon, other indicia on the screen informs the viewer that the program is interactive or includes supplemental content;

Generating one or more automatic selections associated with the opportunity and based on the indication (figs.8b and 8c), the generating comprising executing a script, where provision of the desired level of added content is triggered by the one or more automatic selections instead of one or more selections and providing the added content for display is response to detecting the automatic selections; and providing desired the level of added content for display in response to detecting the automatic selections (col.10, line 44-col.11, line 1+ and col.12, lines 48-col.13, line 1+), note that selecting Icon 204 displays the supplemental content as partly overlaid on the video program, or provided as a wrapper around or along side the program and automatic display of additional buttons 212-221 to provide second tier of information .

Shoff is silent to where the interactive application provides two or more levels of added content, and where the automated input is indicative of a particular level of the levels of added content to be displayed.

However, note the **Fein** reference figures 1-3, discloses interactive method for providing information about items on a list for interactive television, where a selected

item includes increasing levels of additional information (col.1, line 57-col.2, line 32, col.3, line 58-col.4, line 67 and col.7, line 11-col.8, line 1+).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Fein into the system of Shoff to provide levels of additional information to a selected item, to assist the user in making other decision regarding the selected item.

Claim 51 is met as previously discussed with respect to claim 2.

Claim 52 is met as previously discussed with respect to claim 3.

Claim 53 is met as previously discussed with respect to claim 2.

Claim 54 is met as previously discussed with respect to claim 2.

Claim 55 is met as previously discussed with respect to claim 6.

Claim 56 is met as previously discussed with respect to claim 4.

Claim 57 is met as previously discussed with respect to claim 5.

Claim 58 is met as previously discussed with respect to claim 6.

Claim 59 is met as previously discussed with respect to claim 7.

Claim 60 is met as previously discussed with respect to claim 8.

Claim 61 is met as previously discussed with respect to claim 9.

Claim 63 is met as previously discussed with respect to claim 11.

Claim 64 is met as previously discussed with respect to claim 12.

Claim 65 is met as previously discussed with respect to claim 30.

Claim 66 is met as previously discussed with respect to claim 31.

Claim 67 is met as previously discussed with respect to claim 8.

Claim 68 is met as previously discussed with respect to claim 32.

Claim 69 is met as previously discussed with respect to claim 1.

Claim 70 is met as previously discussed with respect to claim 1.

Claim 71 is met as previously discussed with respect to claim 1.

Claim 72 is met as previously discussed with respect to claim 50.

Claims 73-80 are met as previously discussed with respect to claim 1.

### ***Response to Arguments***

4. Applicant's arguments/amendment with respect to claims 1-9, 11-26, 28-42, 44-61 and 63-72 have been considered but are moot in view of the new ground(s) of rejection.

Applicant amends claims and argues that "...there is no storing of an indication of desired level of added content...." (see page 15/19+ of Applicant's Remarks).

In response, Examiner notes Applicant's arguments, however the Examiner disagrees. Shoff discloses that the Viewer Computing Unit 'VCU,' upon receiving an interactive request, stores various level of added content to be displayed and displays various added content (text, graphics, video, picture, sound, etc. (col.4, line 62-col.5, line 23, col.7, line 61-col.8, line 18 and col.9, line 20-col.10, line 55, line 59-col.11, line 67+)). Shoff is silent to where the interactive application provides two or more levels of added content, and where the automated input is indicative of a particular level of the levels of added content to be displayed. However, in the same field of endeavor, **Fein**

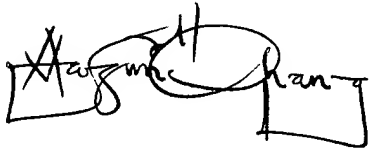
discloses interactive method for providing information about items on a list for interactive television, where a selected item of interest includes increasing levels of additional information (col.1, line 57-col.2, line 32, col.3, line 58-col.4, line 67 and col.7, line 11-col.8, line 1+). Hence the amended claims do not overcome the prior arts of record as discussed above. **This office action is non-final.**

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at 866-217-9197 (toll-free). If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Annan Q. Shang', enclosed within a rectangular box.

**Annan Q. Shang**